



February 20, 2009

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## SENATE BILL No. 48

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DIGEST OF SB 48 (Updated February 17, 2009 4:21 pm - DI 106)

**Citations Affected:** IC 35-42; noncode.

**Synopsis:** Child solicitation. Makes child solicitation committed by a person at least 21 years of age against a child under 14 years of age a Class C felony if the person performs an overt act demonstrating an intent to physically meet the child. Enhances the penalty to a Class B felony if it is committed by means of a computer network, and to a Class A felony if it is committed by means of a computer network by a person who has a prior conviction for child solicitation by means of a computer network.

**Effective:** July 1, 2009.

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**Head, Merritt, Arnold, Charbonneau,  
Taylor, Waterman, Steele, Delph,  
Stutzman**

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January 7, 2009, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.  
February 19, 2009, amended, reported favorably — Do Pass.

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SB 48—LS 6319/DI 106+



February 20, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## SENATE BILL No. 48

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 35-42-4-6, AS AMENDED BY P.L.216-2007,  
2 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2009]: Sec. 6. (a) As used in this section, "solicit" means to  
4 command, authorize, urge, incite, request, or advise an individual:

- 5 (1) in person;
- 6 (2) by telephone;
- 7 (3) in writing;
- 8 (4) by using a computer network (as defined in IC 35-43-2-3(a));
- 9 (5) by advertisement of any kind; or
- 10 (6) by any other means;

11 to perform an act described in subsection (b), ~~or~~ (c), **or** (d).

12 (b) **Except as provided in subsection (c)**, a person **at least** eighteen  
13 (18) years of age ~~or older~~ who knowingly or intentionally solicits a  
14 child under fourteen (14) years of age, or an individual the person  
15 believes to be a child under fourteen (14) years of age, to engage in:

- 16 (1) sexual intercourse;
- 17 (2) deviate sexual conduct; or

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(3) any fondling or touching intended to arouse or satisfy the sexual desires of either the child or the older person; commits child solicitation, a Class D felony. However, the offense is a Class C felony if it is committed by using a computer network (as defined in IC 35-43-2-3(a)), and a Class B felony if the person commits the offense by using a computer network (as defined in IC 35-43-2-3(a)) and has a previous unrelated conviction for committing the offense by using a computer network (as defined in IC 35-43-2-3(a)).

**(c) A person at least twenty-one (21) years of age who:**

**(1) knowingly or intentionally solicits a child under fourteen (14) years of age, or an individual the person believes to be a child under fourteen (14) years of age, to engage in:**

**(A) sexual intercourse;**

**(B) deviate sexual conduct; or**

**(C) any fondling or touching intended to arouse or satisfy the sexual desires of either the child or the older person; and**

**(2) performs an overt act demonstrating an intent to physically meet the child;**

commits child solicitation, a Class C felony. However, the offense is a Class B felony if the solicitation is committed by using a computer network (as defined in IC 35-43-2-3(a)), and a Class A felony if the person commits the offense by using a computer network (as defined in IC 35-43-2-3(a)) to solicit the child and has a previous unrelated conviction for committing the offense by using a computer network (as defined in IC 35-43-2-3(a)) to solicit the child.

**(d) A person at least twenty-one (21) years of age who knowingly or intentionally solicits a child at least fourteen (14) years of age but less than sixteen (16) years of age, or an individual the person believes to be a child at least fourteen (14) years of age but less than sixteen (16) years of age, to engage in:**

**(1) sexual intercourse;**

**(2) deviate sexual conduct; or**

**(3) any fondling or touching intended to arouse or satisfy the sexual desires of either the child or the older person;**

commits child solicitation, a Class D felony. However, the offense is a Class C felony if it is committed by using a computer network (as defined in IC 35-43-2-3(a)), and a Class B felony if the person commits the offense by using a computer network (as defined in IC 35-43-2-3(a)) and has a previous unrelated conviction for

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1 committing the offense by using a computer network (as defined in  
2 IC 35-43-2-3(a)).

3 ~~(d)~~ (e) In a prosecution under this section, including a prosecution  
4 for attempted solicitation, the state is not required to prove that the  
5 person solicited the child to engage in an act described in subsection  
6 (b), ~~or~~ (c), **or (d)** at some immediate time.

7 SECTION 2. [EFFECTIVE JULY 1, 2009] **IC 35-42-4-6, as**  
8 **amended by this act, applies only to crimes committed after June**  
9 **30, 2009.**

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## COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 48, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 12, delete "A" and insert "**Except as provided in subsection (c), a**".

Page 1, line 12, delete "but less".

Page 1, line 13, delete "than twenty-one (21) years of age".

Page 2, line 11, after "who" insert ":

**(1)**".

Page 2, line 15, delete "(1)", begin a new line double block indented and insert:

**"(A)"**.

Page 2, line 16, delete "(2)", begin a new line double block indented and insert:

**"(B)"**.

Page 2, line 17, delete "(3)", begin a new line double block indented and insert:

**"(C)"**.

Page 2, line 18, after "person;" insert "**and**

**(2) performs an overt act demonstrating an intent to physically meet the child;**".

Page 2, line 19, delete "Class D" and insert "**Class C**".

Page 2, line 20, delete "it" and insert "**the solicitation**".

Page 2, line 23, after "IC 35-43-2-3(a)" insert "**to solicit the child**".

Page 2, line 25, after "IC 35-43-2-3(a)" insert "**to solicit the child**".

and when so amended that said bill do pass.

(Reference is to SB 48 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 6, Nays 1.

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